

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

JASON J. SMITH-BEY,

Plaintiff,

v.

CIVIL ACTION NO. 5:09-cv-00746

SCOTTY ROSE, et al.,

Defendant.

**MEMORANDUM OPINION AND ORDER
ADOPTING PROPOSED FINDINGS AND RECOMMENDATION**

This action was referred to the Honorable R. Clarke VanDervort, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). On August 17, 2011, the Magistrate Judge submitted *Proposed Findings and Recommendation* (“PF&R”) (Docket 40) wherein it is recommended that this Court grant *Defendants’ Motion to Dismiss, or in the alternative, Motion for Summary Judgment* (Docket 20) and dismiss Plaintiff’s *Complaint* (Docket 1).

The Court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of de novo review and the Petitioner’s right to appeal this Court’s Order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir.1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir.1984). In addition, this Court need not conduct

a de novo review when a party “makes general and conclusory objections that do not direct the Court to a specific error in the magistrate's proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir.1982). To date, no objections have been filed.

Accordingly, the Court **ORDERS** that the recommendation of the Magistrate Judge as contained in the *Proposed Findings and Recommendation* (Docket 40) be **ADOPTED**, that *Defendants' Motion to Dismiss, or in the alternative, Motion for Summary Judgment* (Docket 20) be **GRANTED**, and that Plaintiff's *Complaint* (Docket 1) be **DISMISSED** and **STRICKEN** from the Court's docket.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and to any unrepresented party.

ENTER: September 7, 2011


IRENE C. BERGER
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF WEST VIRGINIA